

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

WP(C).No. 22607 of 2006(N)

PETITIONER:

**M/S. VALVOLINE CUMMINS LTD.,
DOOR NO.XII/774 E, PITTAPPILLY ESTATE,
PALACHUVADU ROAD, PADAMUGAL, KOCHI-30,
REPRESENTED BY M.SANTHOSH KUMAR,
DEPOT-IN-CHARGE.**

**BY ADV. SRI.VIJAYAN. K.U.
SRI.K.N.SREEKUMARAN
SRI.N.R.SAJ**

RESPONDENTS:

- 1. SALES TAX OFFICER,
KGST 2ND CIRCLE, TRIPUNITHURA.**
- 2. COMMERCIAL TAX OFFICER,
KVAT 2ND CIRCLE, TRIPUNITHURA.**
- 3. COMMERCIAL TAX OFFICER,
AUDIT ASSESSMENT, COMMERCIAL TAXES,
SALES TAX COMPLEX, ERNAKULAM.**
- 4. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVT., TAXES DEPARTMENT,
THIRUVANANTHAPURAM.**

BY ADVOCATE SRI.C.K.GOVINDAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C) NO.22607/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ANNUAL RETURN FOR 04-05 UNDER THE KGST ACT BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P2:- COPY OF THE MONTHLY RETURN FOR 4.05 FILED BEFORE THE 2ND RESPONDENT.

EXT.P3:- COPY OF THE NOTICE DT.20.6.05 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P4:- COPY OF THE REPLY DT.27.6.05 FILED BY THE PETITIONER WITH THE 2ND RESPONDENT.

EXT.P5:- COPY OF THE ANNUAL RETURN FOR 2005-06 FILED BY THE PETITIONER UNDER KVAT ACT WITH THE 2ND RESPONDENT.

EXT.P6:- COPY OF THE SHOW CAUSE NOTICE OF ASSESSMENT DTD.5.6.06 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT.

EXT.P7:- COPY OF THE REPLY DT.27.5.06 FILED BY THE PETITIONER WITH 3RD RESPONDENT.

EXT.P8:- COPY OF THE ORDER OF ASSESSMENT DT.9.6.06 OF THE 3RD RESPONDENT FOR 4/05 TO 12/05 ON THE PETITIONER.

.EXT.P9:- COPY OF THE PENALTY NOTICE DT.30.6.06 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

EXT.P10:- COPY OF THE REPLY DT.25.7.06 FILED BY THE PETITIONER WITH THE 3RD RESPONDENT.

/TRUE COPY/

tss

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 22607 OF 2006-N

JUDGMENT

The petitioner challenges Ext.P8 order passed by the 3rd respondent. It is an order of assessment of Value Added Tax under Section 24(1) of the Kerala Value Added Tax Act. It also challenges Ext.P9 notice issued under Section 67(1) of the said Act, to impose penalty on it. If the petitioner is aggrieved by Ext.P8 assessment order, it has remedies under the statute. If the statutory remedy is invoked, the period this Writ Petition was pending before this Court will be excluded while computing the period of limitation, if any, in invoking the same. The interim order granted by this Court will remain in force for a period of one month from today. Since Ext.P9 is only a notice, it is unnecessary for this Court to entertain this Writ Petition against it. If the petitioner is aggrieved by the final orders passed on Ext.P9, it has remedies under the statute.

With the above direction and without prejudice to the contentions of the petitioner, the Writ Petition is closed.

10th January, 2007.

K.BALAKRISHNAN NAIR, JUDGE.

Nm/